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## Group Asks Court to Require OSHA to Electronically Accept OSHA 300 Logs and 301 Forms

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In response to OSHA's announcement in May this year that the agency would not require the electronic submission of 300 Logs or 301 Forms for employers with establishments of 250 or more employees, Public Citizen, a consumer rights advocacy group, filed a lawsuit in the U.S. District Court for the District of Columbia challenging OSHA's suspension of the requirement to electronically submit the 300 Log or 301 Forms.

OSHA suspended the electronic submission of the 300 Log and 301 Forms because the agency was in the process of developing a proposed rule amending the requirement under section 1904.41(a)(1). That proposed rule was issued on July 30, 2018 and the comment period is still open and will end on September 28, 2018.

On September 7, 2018, Public Citizen, filed a motion seeking a preliminary injunction. Public Citizen is requesting the federal court to order OSHA to lift the suspension of the electronic submission of the 300 Log and 301 Forms and require OSHA to require and collect from employers the 300 Log and 301 Forms that were due on July 1, 2018.

In its motion, Public Citizen alleges that OSHA violated the Administrative Procedures Act ("APA") by indefinitely delaying the electronic submission of the 300 Log and 301 Forms without going through notice and comment rulemaking. Further, the group alleges that OSHA's actions are arbitrary and capricious in violation of the APA because the agency provided no rationale basis for the change in its position.

Public Citizen claims that OSHA's failure to collect this data will irreparably harm the group because the data "would have provided [Public Citizen] access to workplace injury and illness data from the covered establishments, which they would have analyzed in the course of their work on workplace safety and used to advocate for workplace safety protections." However, there is a significant question as to whether there is any legal requirement for OSHA to make such information publically available, and OSHA has made clear recently that it would not make such information publically available. OSHA has stated that it believes such data is exempt from release under the Freedom of Information Act.

It is anticipated that OSHA will file an opposition to Public Citizen's motion for a preliminary injunction.

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